

Burlington Development Review Board

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BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday May 17, 2016, 5:00 PM

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT

AGENDA

Board Members Present: Austin Hart, Brad Rabinowitz, Jonathan Stevens, A.J.LaRosa,
Ali Zipparo, Wayne Senville

Board Members Absent: Israel Smith, Geoff Hand

Staff Members Present: Scott Gustin, Anita Wade

I. Agenda

616 So Willard Street requests deferral.
16 Rose Street application has been withdrawn
124 Sunset Cliff Road appellant requests a dismissal.

II. Communications

Letter from Jon Anderson accepted into the record.

III. Minutes

IV. Public Hearing

1. 16-0859CU; 616 South Willard Street (RL, Ward 6S) R/JL South Willard

Re-opened public hearing to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church. (Project Manager, Scott Gustin)

A.Hart – Board has received a letter requesting a deferral of 30 days.

Applicant - yes

Board members and staff discussed possible meeting dates.

A.Hart – applicant is asking for a deference until July 19th. The Board would like to give neighbors an opportunity to speak tonight, but don't we know what the applicant's intentions are. This is not considered a public hearing.

J.Noll – feel this is a stalling technique by applicant. The Church does not meet on regular basis and this makes communication with them difficult.

A.Hart - are you opposing the request for deferral?

J.Noll - yes

S.Gustin - a formal NOV has not been issued by Code Enforcement.

B.Rabinowitz - is this appropriate?

S.Gustin - not able to provide an answer. Must defer to Code Enforcement.

A.Hart - if there is an existing violation that you do not want to be living with ask the Code Enforcement Department to pursue it. This Board cannot initiate this.

S.Contompasi – please explain if this is not a formal appeal what is tonight or July's meeting? Parking is still ongoing problem. What can be done about this?

B.Rabinowitz - speak to Code Enforcement Department about the parking. The Board does revisit and reopen public hearings.

S.Contompasi - why is this based on what Church has to say?

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AJ.LaRosa - we were given a parking request, but it was denied since the Board felt we did not have all the information on which to base a decision. Because of this, we reopened the public hearing. The applicant's request of information from the Church is perhaps what they need.

S.Contompasi - maybe the information from the Church is not relevant?

A.Hart - the applicant can come forward and explain. There may be some agreement between applicant and the Church.

B.Rabinowitz - parking at the Church may be a violation and we need to know if there was an agreement between them. We don't have enough information to know this.

A.Hart - asks applicant to give additional information that they intend to provide at the next hearing.

M.Fitzgerald - a representative for the applicant, spoke about the Church being support, but that the Church needs to vote on arrangement with Majestic. Due to religious holiday and vacations they have been unable to meet.

B.Rabinowitz - is the information based on the original permit?

M.Fitzgerald - we can address this at the next meeting.

A.Hart - question is whether to meet during July 19th for the continuance and whether everyone has had a chance to speak.

S.Contompasi - unable to understand about the parking between Church and Majestic.

S.Gustin - they requested a deferral for additional information.

A.Hart - have we made a decision to reopen?

S.Gustin - yes

S.Contompasi - this is for more information?

A.Hart - there is very little information and allowing applicant to present more information.

J.Noll - If this property is zoned in RL what happens? In meantime they continue to use it.

G.Hand - motion to defer public hearing to July 19th.

AJ.LaRosa - seconds the motion.

Board Vote: 4-1-1

Motion passes.

2. 16-0762PD; 16 Rose Street (I, Ward 1E) J & S, LLC

Build a duplex on a parcel with an existing single family home. (Project Manager, Mary O'Neil)

A.Hart - applicant has withdrawn their application. There is no one to speak. This matter is closed and the application withdrawn.

3. 16-0870AP; 124 Sunset Cliff Road (RL-W, Ward 4N) Joseph Kroger

Continuance of an appeal of Notice of Zoning Violation #298627 relative to a second unit in a single family home. (Project Manager, Jeanne Francis)

A.Hart - This item is moot and there is no one here to speak. Motion made to dismiss.

A.Zipparo - seconds the motion.

Board Vote: 7-0-0

4. 16-1148CA; 395 Manhattan Drive (RM, Ward 2C) Chris Khamnei

Install house and related site improvements on vacant lot. (Project Manager, Scott Gustin)

A.Hart - no applicant, but neighbors and members of public are here to speak. There was a NOV meant to resolve the fact the house was demolished and the property was an open pit for a few years. For the applicant not to show up is frustrating.

A.Hart - swears in adjacent property owner who would like to speak.

J.Allerman - owns 383 Manhattan Dr. Said the project property was vacant for some time with debris and garbage and drug deals. In support of the development of site especially a historic home. Agrees with staff recommendations and basic landscaping plan. Applicant should include trees and shrubs and DPW should ensure safety and proper permits.

A.Zipparo - are there homeless people living there?

J.Allerman - they are living in cars.

A.Zipparo - aware that drug deals are pretty persistent.

A.Hart - Board discussed what to do about this deciding the project was a good solution for the area. Usually if applicant doesn't show up we have to put off or deny the project.

B.Rabinowitz - there are a few technical aspects with this application.

A.Hart - difficult to discuss this without the applicant present. What should the Board do about the continuance? Does the Board have subpoena power?

S.Gustin - yes, the Board does.

A.Hart - ask staff to contact Code Enforcement to follow up and the Board can continue the public hearing to the soonest date.

A.Zipparo - asks if the Board should deny the application?

A.J.LaRosa - this is up to Code Enforcement. The Board is respectful of the applicant on these violations, but then he does not show up today?

A.Hart - should we reschedule?

S.Gustin - the 1st hearing in June is full a full agenda. The June 21st has five regular items.

A.Zipparo - how long ago did we vote on this item?

S.Gustin - originally, the Board gave approval for a duplex, but the permit expired.

J.Stevens - is there a reason why we are not denying this project and sending to Code Enforcement?

A.Hart - we want this to be built as soon as possible if our questions are answered.

J.Stevens - we just had a discussion about the process and how it is not based on personal feelings. On the application is says that the applicant must attend the meeting to receive approval.

S.Gustin - Code Enforcement has issued a NOV. If he doesn't pursue the application, the next step is to go to Court. Fines are issued by the Court.

The applicant arrives to the meeting.

A.Hart - the hearing started at 5pm. The hearing starts at 5pm and it is disrespectful to the Board, staff, and neighbors

C.Khamnei - not trying to be disrespectful. I had a plumbing emergency.

A.Hart - swears in applicant and other neighbor; tell us what you want to inform; issues brought up with staff and neighbors to be late.

C.Khamnei - this has not happened before. Forgive me for being late, there was no intention to do so. I had a plumbing emergency. The Board has this application and I wanted to submit questions. I would like to know what testimony I have missed.

A.Hart - this looks like a good solution for the enforcement issue. Questions the implementation.

C.Khamnei - this is a historic house. Before I did this I cleaned up the property.

B.Rabinowitz - questions side yard setbacks.

A.Hart - have you seen staff comments?

C.Khamnei - these lots are old, the deeds do not correspond with the tax maps.

S.Gustin - Chris and I met and discussed the need for setback measurements.

C.Khamnei - took measurements that shows exactly 2ft. from gate to house. No side yard setback to driveway. Driveway apron is still there, since never a discontinuance of apron and original driveway consistent with adjacent properties and a continued use.

Further discussion occurred among Board members, staff and applicant on the setback issue.

C.Khamnei - foundation will be ready in a week. The excavator will finish the hole. The house mover is ready and secured. Chimneys are not coming with it. Slate roof taken off and put back on. Barn is being taken off and only main house moved. The roof will be reconstructed.

J.Stevens - what is the completion date?

C.Khamnei - house needs to be moved by end of June. Will have plenty of time to put in foundation. The house mover takes 2 to 3 weeks to prepare and takes one day to move.

A.Hart - do you have approval from the City of Winooski?

C.Khamnei - yes

A.Hart - looks like a really nice house and great proposal. Do you need approval to move a house across public roads?

C.Khamnei - spoke about permits and about moving electrical lines.

B.Rabinowitz - Board needs to see landscape plan and 2ft setback.

C.Khamnei - may not do a landscape plan allowing a buyer to do this.

A.Hart - this is part of this approval and we will not approve without this plan.

C.Khamnei - intend to plant grass, and minimal.

A.Hart – are standards in the ordinance for landscaping?
 S.Gustin - yes
 A.Hart – an erosion control plan?
 S.Gustin - yes
 A.Hart - other questions?
 S.Gustin - a parking waiver is requested. Have been trying to get real answers on these waivers.
 C.Khamnei - there's parking on the street and for bikes.
 A.Zipparo - any other exterior changes to the house?
 C.Khamnei – the porch
 A.Hart - two steps up to porch?
 B.Rabinowitz - are you having a basement, then you will need two steps.
 C.Khamnei – again expresses apology for being late.
 B.Kellor – as a resident of an adjacent property near Manhattan Dr., here to lend support to the project. I was not aware about moving house from Winooski and want to see site plan and know setback.
 C.Khamnei – spoke regarding two adjacent properties facing Manhattan Dr.
 B.Kellor - welcome news that there will be something there soon.
 A.Hart - still like you to provide setbacks on adjacent properties.

V. Other Business

1. **Discussion item as requested by Susan Reardon**
16-0724PD; 451 Ethan Allen Parkway (RL, Ward 7N) Timothy G. Alles
 9-unit planned unit development. Preliminary plat presently under appeal at VT Superior Court Environmental Division.

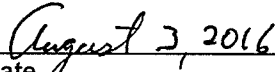
 A.Hart - we made a decision that has been appealed to VSCED. Interested parties made a request about procedure
 S.Reardon - here to talk about the procedure. The list of homeowners is outdated. Many of us did not receive the notice. When we spoke with staff they said it was accurate.
 A.Hart - opportunity to see if we can do things better. Do we send notices based on the grand list property tax rolls?
 S.Gustin – yes, adjacent and a few beyond.
 A.Hart – the grand list can be different.
 S.Reardon - two houses were not even listed as adjoining properties.
 A.Hart - the system may not be perfect. A 'Z' card is posted on the property and there are postings in City Hall and in the newspaper.
 S.Reardon - if you don't know where to look how would you know? This has been going on since 2002.
 A.Zipparo - tenants do not receive the notices and are not included in this process.
 S.Reardon - notification is a huge issue. Confusion over the appeal process.
 S.Gustin - cannot waive fee it is not our fee it is the VSCED fee. This appeal was denied because it was not based on an Administrative Decision.
 A.Hart - only way to appeal is to go to VSCED. None of us can give advice about appeal. This decision was on a preliminary plat and not a final plat.
 S.Reardon - two different people given the form and then told could not do this with the form.
 A.Hart - if you were handed the wrong form we can correct internally, but you ended up were you wanted to be.
 S.Reardon - VSCED asked why we were there; we are doing what the elected officials told us
 A.Hart - it may be that consulting with an attorney is a good idea. The process is not simple
 S.Reardon - if given proper notice we would have been here.
 A.J.LaRosa - this is now totally out of our hands. We cannot do anything at this point. It's in VSCED jurisdiction.
 S.Reardon – April 5th agenda was not on properly informed. Anne Shefler watching the TV airing came down to speak and was not allowed to talk. Taking this information to VSCED.
 S.Gustin – this was one of three before the Board on April 5th. This the Board made the decision not to reopen and therefore the individual who came to speak could not.

S.Reardon – we would not be with the VSCED if asked to speak at that time.
S.Gustin - you did need to come, but the Board could not reopen the hearing.
AJ.LaRosa – gave explanation on how a hearing is reopened.
S.Reardon - sounded like the decision was made already.
B.Rabinowitz - this project has been ongoing for 8 years. The project has had a lot of public input. I understand the errors and that you are not happy with the process and that maybe it's something you want to address at VSCED. It wasn't about not having a public hearing.
S.Reardon - merits of case and stormwater plan is not enough in our opinion.
A.Hart - we can continue to be conscious about the notice list and tax list. Planning and Zoning staff can be educated to give advice. Maybe you are where you want to be.
S.Reardon – wanted to say that staff is always extremely polite and helpful.

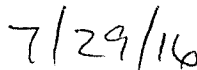
VI. Adjournment

Meeting adjourned 6:38 pm.
Deliberative session was held after this meeting.


Austin Hart, Chair of Development Review Board


Date


A.Wade, Planning & Zoning Clerk


Date

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential.

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

